

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**CHARLOTTE SWEARINGEN,**

**Plaintiff,**

**VS.**

**JO ANNE B. BARNHART,  
COMMISSIONER, SOCIAL  
SECURITY ADMINISTRATION,**

**Defendant.**

**CASE NO. 4:05CV3079**

# MEMORANDUM AND ORDER

This matter is before the Court on the Motion for Attorney Fees (Filing No. 27) filed by the Plaintiff, Charlotte Swearingen, and the itemization attached to the supporting brief (Filing No. 28). The application for attorney fees is filed pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412(d). The Court also notes the response submitted by the Defendant, Jo Anne B. Barnhart, Commissioner of Social Security (Filing No. 29), indicating that the Commissioner does not object to the requested amount.

The Court entered Judgment reversing the matter and remanding the case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). (Filing Nos. 18, 19.)

Subsequently, the Plaintiff's attorney filed an unopposed application for attorney fees requesting a total of \$4,766.40. Because the requested hourly rate exceeds the usual rate of \$125 per hour established in the 1995 amendment to 28 U.S.C. § 2412(d)(2)(D)(2)(A), the Plaintiff's attorney has submitted information regarding the increase in cost of living since 1995. The Court determines, pursuant to § 2412(d)(2)(D)(2)(A), that an increased cost of living justifies the fee to the extent that the fee agreed upon by the parties exceeds the usual rate.

After reviewing the record, the briefs, the supporting pleadings, and the applicable law, the Court finds that an award of attorney fees is appropriate in the requested amount. The Court will order payment of fees to the Plaintiff's attorney.

IT IS ORDERED:

1. The Plaintiff's application for attorney fees (Filing No. 27) is granted;
2. The Plaintiff is awarded attorney fees in the amount of \$4,766.40, payable to Warren L. Reimer, Plaintiff's attorney.

DATED this 1<sup>st</sup> day of May, 2006.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge